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To: Microsoft ATR
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Subject: Comments on proposed Microsoft Settlement

The proposed Microsoft settlement has several flaws and loopholes that should be rectified before being accepted by the court.

1.) The terms +ACI-reasonable convenience+ACI-, +ACI-reasonable opportunity+ACI-, +ACI-reasonable notice+ACI- are much too vague and should either should be replaced with a specific time period, or reasonable should be defined in the definitions section of the document as a time period not to exceed 30 days.

2.) The technical committee should select and appointed by the court from a list of qualified persons nominated by Microsoft, the Justice Department, and the general public (including Microsoft Competitors).

Each of the three groups above should nominate at least five candidates.

The court shall have the option to select any five candidates from those put forth by the general public, or name individuals to bring the nominees of the general public up to five. The court shall have the government investigate the background and qualification of all nominees and report their findings to the court. The court shall appoint one technical committee member from each of the three groups of nominees, to form the three person technical committee.

If a member of the technical committee resigns or is unable to serve for any reason, the court at its discretion may choose a replacement from that member's sponsoring group, or may request five new nominees be named to choose from.

Upon expiration of the term of service, the same procedure shall be followed to appoint a new technical committee. A committee member may not succeed himself.

3.) Technical committee members should be officers of the court. They should be permitted to testify, and their work product, finding, and recommendations should be admissible in any court action relative compliance with the Final Judgement.

4.) Five years of oversight is too short - I recommend a minimum of 10 years. Microsoft has engaged in egregious anti-competitive behavior for at least 20 years, violating previous court orders for part of those years. Rather than fostering innovation, they have suppressed it, killing off good software by bundling second rate imitations into to windows +ACI-for free+ACI-. Actually, with the cost of Microsoft Software getting higher with each new version of Windows while the cost of other Manufacturer's software has stabilized or fallen, the cost to the public has been substantial. Why let them off with a slap on the wrist?

5.) The provision that allows Microsoft to discriminate against companies that haven't sold a million copies in the U.S. and survived a year is absurd, and should be deleted. The definition of covered OEM's is likewise too restrictive, and should substantially be broadened.

6.) API's should be disclosed at the time of the First beta release, or at the time 50,000 copies have been distributed outside of the Microsoft organization. Changes in API's after disclosure should be published to all internal and external parties at the same time. Developers using Microsoft API's should not be required to provide their code to Microsoft.

7.) Microsoft should not be able to terminate any licensing agreements with hardware or software manufacturers without court approval.

8.) Developers should be able to place their icons on the desktop, regardless of whether Microsoft has a competing product.

9.) Users should be able to configure their system to use alternates to Microsoft Middleware without having to confirm their choice for each use or session. They should be able to specify their preference on a control panel or similar mechanism, and change it at will. For instance, I want to use Sun's Java Virtual Machine, rather than Microsoft's, preferably by deinstalling Microsoft's and installing Sun's.

10.) Developers of non-Microsoft middleware should not be required to support Microsoft's Active-X controls if they can accomplish the same results within their own code without interfacing to other operating system services. Active-X controls are a security risk, and should not be crammed down anybody's throat.

In general, I consider the Justice department agreement a sellout, but what can you expect when Microsoft donated over +ACQ-1 million to republican candidates in the last election.